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# eDiscovery Reference Model



[1]

## Xpiori Leads eDiscovery Process

Xpiori is ready to lead formal e-Discovery process to assure compliance when: (a) a **duty to preserve** information is triggered, parties must implement a “**litigation hold**” notice (give a "legal hold" or "do not destroy" notice); (b) when a **regulatory request** has been made upon the organization; (c) preparing or responding to discovery production in formal litigation; or in support of internal monitoring, compliance activities or investigations. In all cases, Xpiori can guide you in developing a sound strategic and tactical approach.

## First Steps Not Technical In Nature

- Developing A Basic Understanding Of Case

Xpiori works with corporate or outside counsel to help prepare a short summary of the issues and people suspected to be involved. The summary should list the issues and include a short statement of the roles that people are anticipated to have played. Secondly, Xpiori professionals work with counsel and IT to determine the location of the information both on and off the network and to consider how to gain access to it.

- Gaining Trust of the People Involved

IT departments are structured to support the day-to-day operations of an organization and activities might include application and desktop management, data protection, network security, infrastructure maintenance, and a whole host of other responsibilities. Unless you've engaged your IT resources and identified what tools are necessary to locate and process large volumes of data for eDiscovery, it would be unwise to assume

that IT has the technology and resources to execute quickly on a simple discovery request. In particular, there needs to be a rapport with the manager of the corporate network. Gaining trust here is really important. He rightly wants to make sure that the access required will not disrupt his network operations or make the network less secure.

Xpiori works hard to understand the people issues. Solving them first will assure disclosure and access to the information. In addition to gaining the confidence of IT, Xpiori works hard to allay people's natural fear of investigation and inquiry. Their help and cooperation is a key to success. In the worst case scenarios, Destruction or hiding of information must be avoided — even potentially embarrassing information.

- Building an ESI Content Map (or "ESI Data Map")

Finally, Xpiori professionals develop an ESI Content Map followed by creation of the Data Inventory. In most places, the information on the network has not been fully archived and indexed for easy recall. Thus, some meetings and interviews are necessary. There are normally three potential locations — the paper archive in the basement, network based information, and information on desktops/laptops which has not been transferred to the network. These locations — identified by names of people having custody, by folders on the network, and file boxes of paper will constitute the Content Map.

#### Xpiori and the Litigation Hold Notice

When you have any reason to believe that you might file or be subject to a claim, you need to act expeditiously to preserve information. If you do not, there is a potential for spoliation — a finding of the destruction of relevant information by intent or negligence — and court orders of sanctions, fines and/or adverse factual inferences. Xpiori provides expert guidance in assessing and documenting the preservation process including the preparation and dissemination of a litigation hold notice to persons potentially having relevant information ( **Custodians**) as well as required updates.

#### Xpiori and Early Case Assessment (ECA)

Xpiori understands and executes on ECA — an assessment not only of the information available but also of the risks associated with information going forward to trial. With the amounts ESI, increasing continually and dramatically, those considerations have tended to dominate ECA.

In ECA assessment of information has two components: (a) early culling of information based upon technical considerations not related to substantive content; and (b) those associated with early assessment of content. Xpiori uses its proprietary, efficient pre-content review tool, **FirstCull** <sup>[2]</sup>™, to identify duplicates and file types that will not contain useful information. At

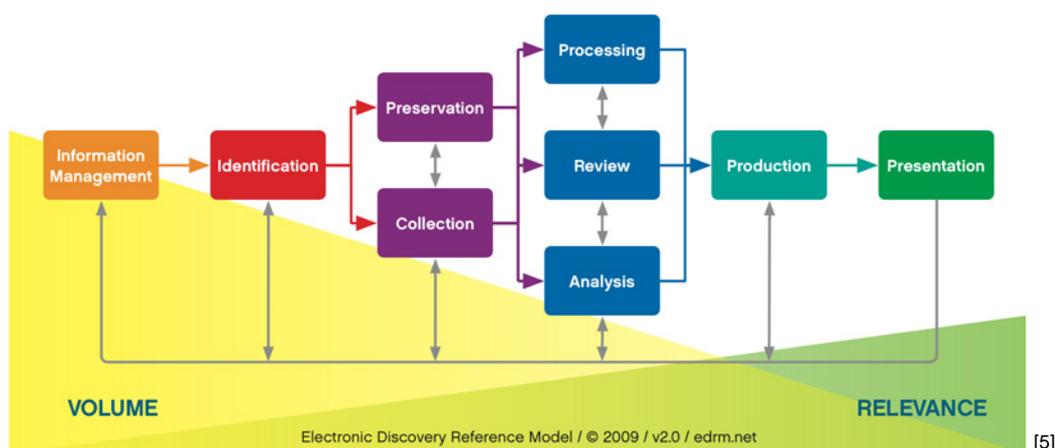
this stage, we also identify all senders, recipients and subject matter of email for review and analysis. The reports from First Cull are particularly useful in pre-content review. With its hosted [OrcaTec Document Decisioning Suite™](#) [3], Xpiori can help use technology assisted content review at this early stage with its patented de-duping, visual concept searching and predictive coding capacities. In matter of hours and not weeks, we identify duplicates or near duplicates of documents, email threads, clusters of associated information, advanced Boolean search techniques and the like. The goal of these ECA is to reduce the amount of data that will require manual content review.

#### Xpiori and Discovery Process in Litigation

Pre-trial practice dealing with Discovery issues — requests for information, classification of information as privileged, and production of information — center around the obligation of the parties to "meet and confer" on such matters and to narrow the issues that might have to be presented to a judge for decision. Xpiori has experience with the "meet and confer" or Rule 26 meetings; and Xpiori provides review resources as well. The eDiscovery reference model shows the steps encountered in developing information at various times in the eDiscovery Process.

#### The Electronic Discovery Reference Model (or the eDiscovery Process; Courtesy EDMR, <http://www.edrm.net>) [4]

##### Electronic Discovery Reference Model



#### Identification:

Xpiori works with clients to create an accurate Content Map at the source of collection to assure that all potential sources are tapped. With a long background in litigation we are able

to tied production to people and issues at an early stage to limit time and expense while making sure all sources are identified.

#### Collection:

Whether its paper or ESI, Xpiori with its [FirstCull](#) [2] and [XCM](#) [6] solutions has the technology and experienced collection professionals to collect data in a forensically sound manner with a documented chain of custody. We take our technology to the site and supervise loading through our automated system. We copy and migrate to a separate store, all documents from identified sources; preserve metadata associated with documents and also the preserve the chain of custody.

#### Processing and Content Review:

After proper collection, pre content review based analysis and processing, professional content review is the next step in the eDiscovery lifecycle -- when your legal team can begin to understand and organize the gathered information. We offer three products at this stage: (a) the hosted [Orca Document Decisioning Suite](#) [3]; (b) the hosted [Nexidia™ audio review platform](#) [7]; and (c), usually as an alternative, the [XCM](#) [6] repository with its free text, meta data and combined free text and metadata search capacity as well its organizational tools — research folders (virtual folders), annotations, bates stamping — and automated updating and OCR.

The [OrcaTech Document Decisioning Suite](#) [3] and the [Nexidia audio review platform](#) [7] are recommended as the best of breed solutions, particularly for complex cases involving substantial document loads. OrcaTech has been shown to eliminate from final review more than 90 % of documents gathered. The suite offers **predictive coding** capacity that can involve the reviewer and his concepts and or vision of the case. Nexidia provides Boolean like search on audio files.

The [XCM](#) [6] repository contains all of the raw materials gathered in the identification and collection process. It is accessed through a light client and by multiple users. It is built for iterative analysis and with search tools that are familiar to lawyers and experienced paralegals. Its use is intuitive and its UI easy to understand. As search results are returned and information reviewed, it can be placed in research folders created to reflect issues, people, communications, events etc. With research folders, no copies of documents need be created. You are always working with the information collected to the store in its native form. If particular documents require context or explanation, the easy to use annotation facility allows the user to record his thoughts and information for the future and other team members.

Xpiori provides content review personnel to augment or assist your team.

**Extraction and Production:** Information is extracted with two clicks for it to be distributed or placed in case management or trial preparation applications of the users choice.

## Xpiori eDiscovery Professionals

In today's complex new world of eDiscovery, Xpiori has experienced eDiscovery professionals that can assist your organization with all aspects of the entire eDiscovery Lifecycle. Whether you need a simple one day seminar on what eDiscovery is all about, help in managing an important eDiscovery project or help designing your entire eDiscovery lifecycle, Xpiori has the experienced eDiscovery professionals to meet your needs in an efficient and cost effect manner.

### The Key Points:

- Xpiori develops the trust of its customers about its processes and capabilities.
- Xpiori demonstrates that it will not disrupt network operations and will not make the network less secure.
- Xpiori works to develop a close rapport with the CIO and network manager in the process.
- Xpiori's first steps lead to development of a Content Map — the location and custody of information to be accessed;
- Xpiori uses FirstCull, a non-intrusive tool to assess the information at its sources. The result is a Data Inventory identifying documents to load to the discovery platform. The goal is to limit the number of files actually required for full content review and to reduce time associated with loading to the discovery platform.
- Xpiori uses OrcaTech Document Decisioning Suite for technology assisted review; and uses Nexidia for rapid review of audio files. Where those hosted technologies have been deployed, they can serve as eDiscovery repository for continual review of the raw documents as required or as new documents are brought forth.

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### Links:

- [1] <http://edrm.net/9197>
- [2] <http://xpiori.com/content/firstcull/firstcull-overview>
- [3] <http://xpiori.com/content/hosted-saas/orca/orca-overview>
- [4] <http://www.edrm.net>
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